

claim for the fund and thus survives the grant of interpleader. *See, e.g., Prudential Ins. Co. of Am. v. Hovis*, 553 F.3d 258, 266, n. 5 (3d Cir. Pa. 2009)(“even where no such unreasonable delay occurred, the stakeholder may (depending on the relevant state law requirements) be liable for prejudgment interest covering the period between when the funds became due to someone and when they were deposited with the court.”).

If this Court denies interpleader, Cozen O’Connor’s motion should be denied in its entirety, as the Farleys’ counterclaim for recovery of the plan benefits would properly be asserted against Cozen. However, if the Court grants interpleader and orders deposit of the plan benefits with the Court, Cozen O’Connor’s motion should be denied at least in part, due to the continued pendency of the Farleys’ counterclaim for prejudgment interest.

Respectfully submitted,

/s/Peter Breen

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CERTIFICATE OF SERVICE

I, Peter Breen, an attorney herein, certify that I caused this DAVID M. AND JOAN F. FARLEY'S RESPONSE TO COZEN O'CONNOR'S MOTION FOR JUDGMENT ON THE PLEADINGS to be served on all counsel via the Court's CM/ECF system on September 22, 2011.

/s/Peter Breen